

103^D CONGRESS
1ST SESSION

H. R. 619

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1993

Mr. McCANDLESS introduced the following bill; which was referred to the
Committee on Banking, Finance and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—AMENDMENTS TO FAIR**
4 **CREDIT REPORTING ACT**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Consumer Reporting
7 Reform Act of 1993”.

1 **SEC. 102. DEFINITIONS.**

2 (a) ADVERSE ACTION.—Section 603 of the Fair
3 Credit Reporting Act (15 U.S.C. 1681a) is amended by
4 adding at the end the following new subsection:

5 “(j) The term ‘adverse action’—

6 “(1) has the meaning given to such term in sec-
7 tion 701(d)(6) of the Equal Credit Opportunity Act;
8 and

9 “(2) includes—

10 “(A) any denial of, increase in any charge
11 for, or reduction in the amount of, insurance
12 for personal, family, or household purposes
13 made in connection with the underwriting of in-
14 surance;

15 “(B) any denial of employment or any
16 other decision for employment purposes which
17 adversely affects any current or prospective em-
18 ployee; and

19 “(C) any action taken, or determination
20 made—

21 “(i) with respect to a consumer for—

22 “(I) an application for an exten-
23 sion of credit;

24 “(II) a report for the cashing of
25 a check drawn by the consumer;

1 “(III) an application for a trans-
2 action account (as that term is de-
3 fined in section 19(b)(1) of the Fed-
4 eral Reserve Act) at a depository in-
5 stitution (as that term is defined in
6 section 3(c) of the Federal Deposit
7 Insurance Act);

8 “(IV) an application for the leas-
9 ing of real estate; and

10 “(ii) which is adverse to the interest
11 of the consumer.”.

12 (b) EXCLUSIONS FROM DEFINITION OF CONSUMER
13 REPORT.—Section 603(d) of the Fair Credit Reporting
14 Act (15 U.S.C. 1681a(d)) is amended in the second sen-
15 tence—

16 (1) by inserting before the semicolon at the end
17 of clause (A) the following: “, or (i) any communica-
18 tion of that information among persons related by
19 common ownership or affiliated by corporate control;
20 or (ii) any communication of information from a
21 credit application by a consumer among persons re-
22 lated by common ownership or affiliated by cor-
23 porate control, provided that it is clearly and con-
24 spicuously disclosed with the application that the in-

1 formation may be communicated among such per-
2 sons and the consumer consents”;

3 (2) in clause (B) by striking “or” after the
4 semicolon at the end;

5 (3) in clause (C) by striking the period and in-
6 serting a semicolon; and

7 (4) by adding at the end the following: “(D)
8 any communication of information about a consumer
9 between persons who are affiliated by common own-
10 ership or common corporate control and in connec-
11 tion with a credit transaction which is not initiated
12 by the consumer, if either of those persons has com-
13 plied with section 615(d)(2)(B) with respect to a
14 consumer report from which the information is
15 taken and the consumer has consented to use of the
16 report for the transaction in accordance with section
17 615(d)(2)(C); (E) any report furnished for use in
18 connection with a transaction which consists of an
19 extension of credit to be used for a commercial pur-
20 pose, or (F) any report or information furnished to
21 a government agency pursuant to section 608 for
22 law enforcement purposes.”.

23 (c) CONSUMER REPORTING AGENCY.—Section 603(f)
24 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) is
25 amended by striking “practice” and inserting “business”.

1 (d) FIRM OFFER OF CREDIT.—Section 603 of the
2 Fair Credit Reporting Act (15 U.S.C. 1681a) is further
3 amended by adding after subsection (j) (as added by sub-
4 section (a) of this section) the following:

5 “(k) The term ‘firm offer of credit’ means any offer
6 of credit to a consumer that will be honored if, based on
7 information in a consumer report on the consumer and
8 other information bearing on the creditworthiness of the
9 consumer, the consumer is determined to meet the criteria
10 used to select the consumer for the offer.”.

11 (e) CREDIT TRANSACTION WHICH IS NOT INITIATED
12 BY THE CONSUMER.—Section 603 of the Fair Credit Re-
13 porting Act (15 U.S.C. 1681a) is further amended by add-
14 ing after subsection (k) (as added by subsection (d) of this
15 section) the following:

16 “(l) The term ‘credit transaction which is not initi-
17 ated by the consumer’ does not include the use of a
18 consumer report by a person with which the consumer has
19 an account, for purposes of—

20 “(1) reviewing the account; or

21 “(2) collecting the account.”.

22 (f) STATE OR LOCAL CHILD SUPPORT ENFORCE-
23 MENT AGENCY DEFINED.—Section 603 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681a) is further amended by

1 adding after subsection (l) (as added by subsection (e) of
2 this section) the following:

3 “(m) The term ‘State or local child support enforce-
4 ment agency’ means a State or local agency which admin-
5 isters a State or local program for establishing and enforce-
6 ing child support obligations.”.

7 (g) STATE.—Section 603 of the Fair Credit Report-
8 ing Act (15 U.S.C. 1681a) is further amended by adding
9 after subsection (m) (as added by subsection (f) of this
10 section) the following:

11 “(n) The term ‘State’ means any State, the Common-
12 wealth of Puerto Rico, the District of Columbia, and any
13 territory or possession of the United States.”.

14 (h) CLERICAL AMENDMENT.—Section 603(d) of the
15 Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is
16 amended in the first sentence—

17 (1) by inserting “(1)” after “in whole or in part
18 for”; and

19 (2) by striking “(1)” before “credit or insur-
20 ance”.

21 **SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EM-**
22 **PLOYMENT PURPOSES.**

23 (a) FURNISHING CONSUMER REPORTS FOR BUSI-
24 NESS TRANSACTIONS.—Section 604 of the Fair Credit Re-
25 porting Act (15 U.S.C. 1681b) is amended—

1 (1) by inserting “(a) IN GENERAL.—” before
2 “A consumer reporting agency”;

3 (2) in subsection (a) (as designated by para-
4 graph (1)) by moving the left hand margins of para-
5 graphs (1) through (3) (including such margins of
6 subparagraphs (A) through (E) of paragraph (3)) 2
7 ems to the right; and

8 (3) in subsection (a)(3) (as designated by para-
9 graph (1) of this subsection) by amending subpara-
10 graph (E) to read as follows:

11 “(E) otherwise has a legitimate business
12 need for the information in connection with—

13 “(i) a review of an existing account of
14 the consumer; or

15 “(ii) a business transaction that—

16 “(I) is initiated by the consumer;
17 or

18 “(II) is a direct marketing trans-
19 action for which the furnishing of a
20 consumer report by the agency is not
21 prohibited under subsection (e).”.

22 (b) FURNISHING AND USING CONSUMER REPORTS
23 FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair
24 Credit Reporting Act (15 U.S.C. 1681b) is further amend-
25 ed by adding at the end the following new subsection:

1 “(b) CONDITIONS FOR FURNISHING AND USING
2 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

3 “(1) CERTIFICATION FROM USER.—A consumer
4 reporting agency may furnish a consumer report for
5 employment purposes only if—

6 “(A) the person who obtains such report
7 from the agency certifies to the agency that—

8 “(i) the disclosure required under
9 paragraph (2) or (3), as the case may be,
10 with respect to such consumer report has
11 been made; and

12 “(ii) information from the consumer
13 report will not be used in violation of any
14 applicable Federal or State equal employ-
15 ment opportunity law or regulation; and

16 “(B) the consumer reporting agency pro-
17 vides with the report a summary of the consum-
18 er’s rights under this title, as prescribed by the
19 Federal Trade Commission under section
20 609(c)(3).

21 “(2) DISCLOSURE TO PROSPECTIVE EMPLOY-
22 EES.—A person may not procure a consumer report,
23 or cause a consumer report to be procured, for em-
24 ployment purposes with respect to any consumer

1 who is not an employee at the time such report is
2 procured or caused to be procured unless—

3 “(A) a clear and conspicuous disclosure
4 has been made in writing to the consumer be-
5 fore the report is procured or caused to be pro-
6 cured that a consumer report may be obtained
7 for purposes of considering the consumer for
8 employment; and

9 “(B) the consumer authorizes in writing
10 the procurement of the report.

11 “(3) DISCLOSURES TO EXISTING EMPLOYEES.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), a person may not procure a
14 consumer report, or cause a consumer report to
15 be procured, for employment purposes with re-
16 spect to any employee unless the employee has
17 received, at any time after becoming an em-
18 ployee and before the report is procured, a writ-
19 ten disclosure that consumer reports may be
20 used for employment purposes.

21 “(B) WRITTEN MATERIAL CONSTITUTING
22 DISCLOSURE.—A written statement that
23 consumer reports may be used for employment
24 purposes which is contained in employee guide-
25 lines or manuals available to employees or in-

1 cluded in written materials provided to employ-
 2 ees shall constitute a written disclosure for pur-
 3 poses of subparagraph (A).

4 “(4) CONDITIONS ON USE FOR ADVERSE AC-
 5 TIONS.—In using a consumer report for employment
 6 purposes, before taking any adverse action based in
 7 whole or in part on the report a person shall provide
 8 to the consumer to whom the report relates—

9 “(A) a copy of the report;

10 “(B) a description of the consumer’s rights
 11 under this title, as prescribed by the Federal
 12 Trade Commission under section 609(c)(3); and

13 “(C) a reasonable opportunity to respond
 14 to any information in the report that is dis-
 15 puted by the consumer.”.

16 **SEC. 104. AMENDMENTS RELATING TO PRESCREENING OF**
 17 **CONSUMER REPORTS; PROHIBITION ON UN-**
 18 **AUTHORIZED OR UNCERTIFIED USE OF IN-**
 19 **FORMATION.**

20 (a) IN GENERAL.—Section 604 of the Fair Credit
 21 Reporting Act (15 U.S.C. 1681b), as amended by section
 22 103, is further amended—

23 (1) in subsection (a) by striking “A consumer
 24 reporting agency” and inserting “Subject to sub-
 25 section (c), any consumer reporting agency”; and

1 (2) by adding after subsection (b) (as added by
2 section 103(b)) the following new subsections:

3 “(c) FURNISHING REPORTS IN CONNECTION WITH
4 CREDIT TRANSACTIONS NOT INITIATED BY THE
5 CONSUMER.—

6 “(1) IN GENERAL.—A consumer reporting
7 agency may furnish a consumer report relating to
8 any consumer pursuant to subsection (a)(3)(A) in
9 connection with any credit transaction which is not
10 initiated by the consumer only if—

11 “(A) the consumer authorizes the agency
12 to provide such report to such person; or

13 “(B)(i) the transaction consists of a firm
14 offer of credit;

15 “(ii) the consumer reporting agency has
16 complied with subsection (d); and

17 “(iii) the consumer has not elected in ac-
18 cordance with subsection (d)(1) to have the con-
19 sumer’s name and address excluded from lists
20 of names provided by the agency pursuant to
21 this paragraph.

22 “(2) LIMITS ON INFORMATION RECEIVED
23 UNDER PARAGRAPH (1)(B).—A person may receive
24 pursuant to paragraph (1)(B) only—

1 “(A) the name and address of a consumer;
2 and

3 “(B) information pertaining to a consumer
4 that is not identified or identifiable with the
5 consumer.

6 “(3) INFORMATION REGARDING INQUIRIES.—
7 Except as provided in section 609(a)(4), a consumer
8 reporting agency shall not furnish to any person a
9 record of inquiries solely resulting from credit trans-
10 actions which are not initiated by a consumer.

11 “(d) ELECTION OF CONSUMER TO BE EXCLUDED
12 FROM LISTS.—

13 “(1) IN GENERAL.—A consumer may elect to
14 have his or her name and address excluded from any
15 list provided by a consumer reporting agency in con-
16 nection with a transaction which is not initiated by
17 the consumer and which is a credit or direct market-
18 ing transaction, by—

19 “(A) notifying the agency, through the no-
20 tification system maintained by the agency
21 under paragraph (3), that the consumer does
22 not consent to any use of consumer reports re-
23 lating to the consumer in connection with any
24 transaction which is not initiated by the
25 consumer; and

1 “(B) returning to the agency a signed
2 written notice of the election, if provided by the
3 agency in accordance with paragraph (2).

4 “(2) PROVISION OF WRITTEN NOTICE TO
5 CONSUMER.—A consumer reporting agency shall
6 provide to a consumer a written notice for purposes
7 of paragraph (1)(B), by not later than 5 business
8 days after being notified of the election of the
9 consumer in accordance with paragraph (1)(A).

10 “(3) NOTIFICATION SYSTEM.—Each consumer
11 reporting agency which furnishes a consumer report
12 in connection with any transaction which is not initi-
13 ated by a consumer and which is a credit or direct
14 marketing transaction, shall—

15 “(A) establish and maintain a notification
16 system, including a toll-free telephone number,
17 which permits any consumer whose consumer
18 report is maintained by the agency to notify the
19 agency, with appropriate identification, of the
20 consumer’s election to have the consumer’s
21 name and address excluded from any list of
22 names and addresses provided by the agency for
23 such a transaction; and

24 “(B) publish by not later than 12 months
25 after the date of the enactment of the

1 Consumer Reporting Reform Act of 1992, and
2 at least annually thereafter, in a publication of
3 general circulation in the area served by the
4 agency—

5 “(i) a notification that information in
6 consumer files maintained by the agency
7 may be used in connection with such trans-
8 actions; and

9 “(ii) the address and toll-free tele-
10 phone number for consumers to use to no-
11 tify the agency of the consumer’s election
12 under subparagraph (A).

13 Establishment and maintenance of a notification
14 system and publication by a consumer reporting
15 agency in accordance with this paragraph is deemed
16 to be compliance with this paragraph by each affili-
17 ate of the agency.

18 “(4) AGENCIES WHICH OPERATE NATION-
19 WIDE.—Each consumer reporting agency which com-
20 piles and maintains files on consumers on a nation-
21 wide basis shall establish and maintain a notification
22 system for purposes of paragraph (3) jointly with
23 other such consumer reporting agencies.

24 “(5) EFFECTIVENESS OF ELECTION.—An elec-
25 tion of a consumer under paragraph (1)—

1 “(A) shall be effective with respect to a
2 consumer reporting agency beginning on the
3 later of—

4 “(i) the date on which the consumer
5 notifies the agency in accordance with
6 paragraph (1)(A); or

7 “(ii) the date on which the consumer
8 returns to the agency a signed written no-
9 tification of the election in accordance with
10 paragraph (1)(B), if provided by the agen-
11 cy; and

12 “(B) shall not be effective after the earlier
13 of—

14 “(i) the date which is 2 years after
15 that effective date; or

16 “(ii) the date on which the consumer
17 notifies the agency (through the system es-
18 tablished by the agency under paragraph
19 (3)) that the election is no longer effective;
20 and

21 “(C) shall be effective with respect to each
22 affiliate of the agency.”.

23 (b) FURNISHING CONSUMER REPORTS FOR DIRECT
24 MARKETING TRANSACTIONS.—Section 604 of the Fair
25 Credit Reporting Act (15 U.S.C. 1681b) is further amend-

1 ed by adding after subsection (d) (as added by subsection
2 (a) of this section) the following new subsection:

3 “(e) FURNISHING CONSUMER REPORTS FOR DIRECT
4 MARKETING TRANSACTIONS NOT INITIATED BY
5 CONSUMER.—

6 “(1) FURNISHING REPORTS PROHIBITED.—A
7 consumer reporting agency may not furnish a
8 consumer report for use for a direct marketing
9 transaction that is not initiated by the consumer to
10 whom the report relates, if—

11 “(A) the consumer notifies the agency that
12 the consumer does not consent to that use;

13 “(B) the report includes any information
14 other than the name and address of the
15 consumer; or

16 “(C) the furnishing of the consumer report
17 bears on the status of any account of the
18 consumer, because of the criteria used to decide
19 to furnish the report.

20 “(2) NOTIFICATION.—A consumer may notify a
21 consumer reporting agency for purposes of para-
22 graph (1)(A) by notifying the joint notification sys-
23 tem established under subsection (d)(4).”.

24 (c) USE OF INFORMATION OBTAINED FROM RE-
25 PORTS.—Section 604 of the Fair Credit Reporting Act (15

1 U.S.C. 1681b) is further amended by adding after sub-
2 section (e) (as added by subsection (b) of this section) the
3 following new subsection:

4 “(f) CERTAIN USE OR OBTAINING OF INFORMATION
5 PROHIBITED.—A person shall not use or obtain informa-
6 tion from a consumer report for any purpose unless—

7 “(1) it is obtained for a purpose for which the
8 consumer report is authorized to be furnished under
9 subsection (a); and

10 “(2) the purpose is certified in accordance with
11 section 607 by a prospective user of the report.”.

12 (d) FIRST NOTIFICATIONS BY CONSUMERS.—A
13 consumer may notify a consumer reporting agency
14 through a notification system established and maintained
15 by the agency under section 604(d) of the Fair Credit Re-
16 porting Act, as amended by subsection (a), on or after
17 the date which is 455 days after the date of the enactment
18 of this Act.

19 **SEC. 105. AMENDMENTS RELATING TO OBSOLETE INFOR-**
20 **MATION AND INFORMATION CONTAINED IN**
21 **CONSUMER REPORTS.**

22 (a) OBSOLETE INFORMATION.—Section 605(a) of the
23 Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amend-
24 ed—

1 (1) by striking “(a) Except as authorized” and
2 inserting “(a) OBSOLETE INFORMATION.—Except as
3 authorized”;

4 (2) by adding at the end the following:

5 “(7) OTHER ACCOUNTS INFORMATION.—Infor-
6 mation regarding an account of a consumer with a
7 person, whether obtained from the person or any
8 other source (including public record information),
9 that relates to a payment which—

10 “(A) was not more than 30 days overdue
11 on the date of payment and was made more
12 than 3 years before the date of the making of
13 the report;

14 “(B) was more than 30 days, and not
15 more than 60 days, overdue on the date of pay-
16 ment and was made more than 4 years before
17 the date of the making of the report; or

18 “(C) was more than 60 days, and not more
19 than 90 days, overdue on the date of payment
20 and was made more than 5 years before the
21 date of the making of the report.”; and

22 (3) by moving the left margin of paragraphs (1)
23 through (6) 2 ems to the right so as to align with
24 paragraph (7) (as added by paragraph (2) of this
25 subsection).

1 (b) INCREASE IN EXEMPTED AMOUNTS.—Section
2 605(b) of the Fair Credit Reporting Act (15 U.S.C.
3 1681c(b)) is amended—

4 (1) by striking “(b) The provisions” and insert-
5 ing “(b) EXEMPTED TRANSACTIONS.—The provi-
6 sions”;

7 (2) in paragraph (1) by striking “\$50,000” and
8 inserting “\$200,000”;

9 (3) in paragraph (2) by striking “\$50,000” and
10 inserting “\$200,000”; and

11 (4) in paragraph (3) by striking “\$20,000” and
12 inserting “\$100,000”.

13 (c) CLARIFICATION OF REPORTING PERIOD.—Sec-
14 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
15 1681c) is further amended by adding at the end the fol-
16 lowing new subsection:

17 “(c) RUNNING OF REPORTING PERIOD.—The 7-year
18 period referred to in paragraphs (4) and (6) of subsection
19 (a) shall begin, with respect to any delinquent account
20 which is placed for collection (internally or by referral to
21 a 3d party, whichever is earlier), charged to profit and
22 loss, or subjected to any similar action, upon the expira-
23 tion of the 180-day period beginning on the date of the
24 commencement of the delinquency which immediately pre-

1 ceded the collection activity, charge to profit and loss, or
2 similar action.”.

3 (d) ADDITIONAL INFORMATION ON BANKRUPTCY
4 FILINGS REQUIRED.—Section 605 of the Fair Credit Re-
5 porting Act (15 U.S.C. 1681c) is further amended by add-
6 ing after subsection (c) (as added by subsection (c) of this
7 section) the following new subsection:

8 “(d) INFORMATION REQUIRED TO BE DISCLOSED.—
9 Any consumer reporting agency which furnishes a
10 consumer report which contains information regarding
11 any case involving the consumer which arises under title
12 11, United States Code, shall include in the report an
13 identification of the chapter of such title 11 under which
14 such case arises if provided by the source of the informa-
15 tion.”.

16 (e) DISCLOSURE OF PERSONAL INFORMATION.—Sec-
17 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
18 1681c) is further amended by adding after subsection (d)
19 (as added by subsection (d) of this section) the following
20 new subsection:

21 “(e) DISCLOSURE OF PERSONAL INFORMATION.—A
22 person who prepares any credit report which includes per-
23 sonal credit information on any consumer shall not include
24 in the report any adverse item of information on the
25 consumer with respect to matters which antedate the re-

1 port by more than 10 years or which could not be included
2 in any consumer report on the consumer in accordance
3 with this section.”.

4 (f) INDICATION OF CLOSURE OF ACCOUNT.—Section
5 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
6 is further amended by adding after subsection (e) (as
7 added by subsection (e) of this section) the following new
8 subsection:

9 “(f) INDICATION OF CLOSURE OF ACCOUNT BY
10 CONSUMER.—If a consumer reporting agency is notified
11 pursuant to section 622(a)(4) that a credit account of a
12 consumer was closed by the consumer, the agency shall
13 indicate that fact in any consumer report that includes
14 information related to the account.”.

15 (g) PROHIBITION ON MAINTAINING OR FURNISHING
16 MEDICAL INFORMATION.—Section 605 of the Fair Credit
17 Reporting Act (15 U.S.C. 1681c) is further amended by
18 adding after subsection (f) (as added by subsection (f) of
19 this section) the following new subsection:

20 “(g) MEDICAL INFORMATION.—A consumer report-
21 ing agency shall not maintain in the file of a consumer,
22 or furnish for credit or employment purposes a consumer
23 report on a consumer which contains, any medical infor-
24 mation about the consumer without the consent of the
25 consumer.”.

1 (h) INCLUSION OF INFORMATION REGARDING OVER-
2 DUE CHILD SUPPORT OBLIGATIONS.—Section 605 of the
3 Fair Credit Reporting Act (15 U.S.C. 1681c) is further
4 amended by adding after subsection (g) (as added by sub-
5 section (g) of this section) the following new subsection:

6 “(h) OVERDUE CHILD SUPPORT OBLIGATIONS.—A
7 consumer reporting agency shall include in any consumer
8 report furnished by the agency pursuant to section 604(a)
9 information (if any) on the failure of the consumer to pay
10 overdue support (as that term is defined in section 466(e)
11 of the Social Security Act), which is—

12 “(1) provided to the agency by a State or local
13 child support enforcement agency; or

14 “(2) provided to the agency and verified by any
15 local, State, or Federal Government agency.”.

16 (i) PROHIBITION ON MAINTAINING OR FURNISHING
17 CERTAIN ACCOUNT INFORMATION.—Section 605 of the
18 Fair Credit Reporting Act (15 U.S.C. 1681c) is further
19 amended by adding after subsection (h) (as added by sub-
20 section (h) of this section) the following new subsection:

21 “(i) CERTAIN ACCOUNT INFORMATION.—

22 “(1) EXCLUSION FROM CONSUMER REPORTS.—
23 A consumer reporting agency shall not maintain in
24 the file of a consumer, or furnish a consumer report
25 on a consumer which contains, any information re-

1 garding a failure of the consumer to make any pay-
2 ment on an account of the consumer that became
3 due in a period during which the consumer was re-
4 ceiving unemployment compensation under the laws
5 of any State (or but for the exhaustion of benefits
6 would be entitled to receive such compensation), if—

7 “(A) the consumer requests in writing that
8 the consumer reporting agency exclude the in-
9 formation from either the file or such reports;

10 “(B) the consumer provides to the agency
11 appropriate documentation which demonstrates
12 that the consumer was receiving (or would so be
13 entitled to receive) such compensation during
14 that period; and

15 “(C) the account is maintained in a cur-
16 rent status during the one-year period ending
17 on the date of the submittal of the request.”.

18 “(2) APPROPRIATE DOCUMENTATION.—The
19 Federal Trade Commission shall prescribe what con-
20 stitutes appropriate documentation for purposes of
21 paragraph (1).”.

22 (j) CLERICAL AMENDMENTS.—

23 (1) The heading for section 605 of the Fair
24 Credit Reporting Act (15 U.S.C. 1681c) is amended
25 by striking “**Obsolete information**” and insert-

1 ing “**Requirements relating to information**
2 **contained in consumer reports**”.

3 (2) The table of sections at the beginning of the
4 Fair Credit Reporting Act (15 U.S.C. 1681a et seq.)
5 is amended by striking the item relating to section
6 605 and inserting the following:

“605. Requirements relating to information contained in consumer reports.”.

7 **SEC. 106. AMENDMENTS RELATING TO COMPLIANCE PRO-**
8 **CEDURES.**

9 (a) DISCLOSURE OF CONSUMER REPORTS BY
10 USERS.—Section 607 of the Fair Credit Reporting Act
11 (15 U.S.C. 1681e) is amended by adding at the end the
12 following new subsection:

13 “(c) DISCLOSURE OF CONSUMER REPORTS BY
14 USERS ALLOWED.—A consumer reporting agency may not
15 prohibit a user of a consumer report furnished by the
16 agency on a consumer from disclosing the contents of the
17 report to the consumer, if adverse action against the
18 consumer has been taken, or is contemplated, by the user
19 based in whole or in part on the report.”.

20 (b) NOTICE TO USERS AND PROVIDERS OF INFORMA-
21 TION TO ENSURE COMPLIANCE.—Section 607 of the Fair
22 Credit Reporting Act (15 U.S.C. 1681e) is further amend-
23 ed by adding after subsection (c) (as added by subsection
24 (a) of this section) the following new subsection:

1 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
2 MATION.—

3 “(1) NOTICE REQUIREMENT.—A consumer re-
4 porting agency shall provide to any person—

5 “(A) who regularly and in the ordinary
6 course of business furnishes information to the
7 agency with respect to any consumer; or

8 “(B) to whom a consumer report is pro-
9 vided by the agency;

10 a notice of such person’s responsibilities under this
11 title.

12 “(2) CONTENT OF NOTICE.—The Federal
13 Trade Commission shall prescribe the content of no-
14 tices under paragraph (1).”.

15 (c) RECORD OF IDENTITY OF USERS AND PURPOSES
16 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
17 Fair Credit Reporting Act (15 U.S.C. 1681e) is further
18 amended by adding after subsection (d) (as added by sub-
19 section (b) of this section) the following new subsection:

20 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
21 SALE.—

22 “(1) DISCLOSURE.—A person may not procure
23 a consumer report for purposes of reselling the re-
24 port (or any information in the report) unless the

1 person discloses to the consumer reporting agency
2 which originally furnishes the report—

3 “(A) the identity of the ultimate end-user
4 of the report (or information), and

5 “(B) each permissible purpose under sec-
6 tion 604 for which the report is furnished to
7 the ultimate end-user of the report (or informa-
8 tion).

9 “(2) RESPONSIBILITIES OF PROCURERS FOR
10 RESALE.—A person which procures a consumer re-
11 port for purposes of reselling the report (or any in-
12 formation in the report) shall—

13 “(A) establish and comply with reasonable
14 procedures designed to ensure that the report
15 (or information) is resold by the person only for
16 a purpose for which the report may be fur-
17 nished under section 604, including by ensuring
18 that the person—

19 “(i) identifies each prospective user of
20 the resold report (or information);

21 “(ii) certifies each purpose for which
22 the report (or information) will be used;
23 and

1 “(iii) certifies that the report (or in-
2 formation) will be used for no other pur-
3 pose; and

4 “(B) before reselling the report, makes
5 reasonable efforts to verify the identifications
6 and certifications made under subparagraph
7 (A).”.

8 **SEC. 107. AMENDMENTS RELATING TO CONSUMER DISCLO-**
9 **SURES.**

10 (a) ALL INFORMATION IN CONSUMER’S FILE RE-
11 QUIRED TO BE DISCLOSED.—Section 609(a)(1) of the
12 Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is
13 amended to read as follows:

14 “(1) All information in the consumer’s file at
15 the time of the request.”.

16 (b) MORE INFORMATION CONCERNING RECIPIENTS
17 OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair
18 Credit Reporting Act (15 U.S.C. 1681g(a)) is amended
19 to read as follows:

20 “(3)(A) Identification of—

21 “(i) each person who for employment pur-
22 poses within the 2-year period preceding the re-
23 quest; and

1 “(ii) each person who for any other pur-
2 pose within the 6-month period preceding the
3 request;

4 procured a consumer report.

5 “(B) An identification of a person under sub-
6 paragraph (A) shall include—

7 “(i) the name of the person or, if applica-
8 ble, the trade name (written in full) under
9 which such person conducts business; and

10 “(ii) upon request of the consumer, the ad-
11 dress of the person.”.

12 (c) INFORMATION REGARDING INQUIRIES.—Section
13 609(a) of the Fair Credit Reporting Act (15 U.S.C.
14 1681g(a)) is amended—

15 (1) by adding at the end the following:

16 “(4) A record of all inquiries received by the
17 agency in the 6-month period preceding the request
18 that identified the consumer in connection with a
19 credit transaction which is not initiated by the
20 consumer.”; and

21 (2) by moving the left margin of paragraph (2)
22 2 ems to the right so as to align with paragraph (4)
23 (as added by paragraph (1) of this subsection).

24 (d) SUMMARY OF RIGHTS REQUIRED TO BE IN-
25 CLUDED WITH DISCLOSURE.—

1 (1) IN GENERAL.—Section 609 of the Fair
2 Credit Reporting Act (15 U.S.C. 1681g) is amended
3 by adding at the end the following new subsection:

4 “(c) SUMMARY OF RIGHTS REQUIRED TO BE IN-
5 CLUDED WITH DISCLOSURE.—

6 “(1) SUMMARY OF RIGHTS.—A consumer re-
7 porting agency shall provide to a consumer, with
8 each written disclosure by the agency to the
9 consumer under this section—

10 “(A) a written summary of all rights the
11 consumer has under this title; and

12 “(B) in the case of a consumer reporting
13 agency that compiles and maintains files on
14 consumers on a nationwide basis, a toll-free
15 telephone number which the consumer can use
16 to communicate with the agency.

17 “(2) SPECIFIC ITEMS REQUIRED TO BE IN-
18 CLUDED.—The summary of rights required under
19 paragraph (1) shall include—

20 “(A) a brief description of this title and all
21 rights of consumers under this title;

22 “(B) an explanation of how the consumer
23 may exercise the rights of the consumer under
24 this title;

1 “(C) a list of all Federal agencies respon-
2 sible for enforcing any provision of this title
3 and the address and any appropriate phone
4 number of each such agency, in a form that will
5 assist the consumer in selecting the appropriate
6 agency; and

7 “(D) a statement that a consumer report-
8 ing agency is not required to remove accurate
9 derogatory information from a consumer’s file,
10 unless the information is outdated under sec-
11 tion 605 or cannot be verified.

12 “(3) FORM OF SUMMARY OF RIGHTS.—For pur-
13 poses of this subsection and any disclosure by a
14 consumer reporting agency required under this title
15 with respect to consumers’ rights, the Federal Trade
16 Commission (after consultation with each Federal
17 agency referred to in section 621(b)) shall prescribe
18 the form and content of any disclosure of the rights
19 of consumers required under this title.”.

20 (2) TECHNICAL AMENDMENT.—Section
21 606(a)(1)(B) of the Fair Credit Reporting Act (15
22 U.S.C. 1681d(a)(1)(B)) is amended by inserting
23 “and the written summary of the rights of the
24 consumer prepared pursuant to section 609(c)” be-
25 fore the semicolon.

1 (e) FORM OF DISCLOSURES.—

2 (1) IN GENERAL.—Subsections (a) and (b) of
3 section 610 of the Fair Credit Reporting Act (15
4 U.S.C. 1681h) are amended to read as follows:

5 “(a) FORM OF DISCLOSURE, GENERALLY.—Except
6 as provided in subsection (b), the disclosures required to
7 be made under section 609 shall be provided to a
8 consumer in writing.

9 “(b) OTHER FORMS OF DISCLOSURE.—

10 “(1) IN GENERAL.—A consumer reporting
11 agency may make the disclosures required under sec-
12 tion 609 other than in writing if authorized by the
13 consumer, and in such form as may be specified by
14 the consumer and available from the agency.

15 “(2) FORM.—A consumer may specify pursuant
16 to paragraph (1) that disclosures under section 609
17 shall be made—

18 “(A) in person, upon—

19 “(i) the appearance of the consumer
20 at the place of business of the consumer
21 reporting agency where disclosures are reg-
22 ularly provided, during normal business
23 hours, and on reasonable notice; and

24 “(ii) the furnishing of proper identi-
25 fication by the consumer;

1 “(B) by telephone, if the consumer has
2 made a written request for disclosure by tele-
3 phone that includes proper identification of the
4 consumer;

5 “(C) by electronic means, if available from
6 the agency; or

7 “(D) by any other reasonable means that
8 is available from the agency.”.

9 (2) SIMPLIFIED DISCLOSURE.—Section 610 of
10 the Fair Credit Reporting Act (15 U.S.C. 1681h) is
11 amended by adding at the end the following:

12 “(f) SIMPLIFIED DISCLOSURE.—The Federal Trade
13 Commission shall prescribe the form in which a consumer
14 reporting agency shall make the disclosures required
15 under section 609(a), for the purpose of maximizing the
16 comprehensibility and standardization of such disclo-
17 sures.”.

18 (3) CONFORMING AMENDMENTS.—

19 (A) Section 610 of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681h) is amended in the
21 heading for the section by inserting “**and**
22 **form**” after “**Conditions**”.

23 (B) The table of sections at the beginning
24 of the Fair Credit Reporting Act (15 U.S.C.
25 1681a et seq.) is amended in the item relating

1 to section 610 by inserting “and form” after
2 “Conditions”.

3 **SEC. 108. AMENDMENTS RELATING TO PROCEDURES IN**
4 **CASE OF THE DISPUTED ACCURACY OF ANY**
5 **INFORMATION IN A CONSUMER’S FILE.**

6 (a) IN GENERAL.—Section 611(a) of the Fair Credit
7 Reporting Act (15 U.S.C. 1681i(a)) is amended to read
8 as follows:

9 “(a) REINVESTIGATIONS OF DISPUTED INFORMA-
10 TION.—

11 “(1) IN GENERAL.—If the completeness or ac-
12 curacy of any item of information contained in any
13 consumer’s file at any consumer reporting agency is
14 disputed by the consumer and the consumer notifies
15 the agency directly of such dispute, the agency shall
16 reinvestigate free of charge and record the current
17 status of the disputed information before the end of
18 the 30-business-day period beginning on the date the
19 agency receives the notice of the dispute from the
20 consumer.

21 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
22 NISHER OF INFORMATION.—Before the end of the 5-
23 business-day period beginning on the date a
24 consumer reporting agency receives notice of a dis-
25 pute from any consumer in accordance with para-

1 graph (1), the agency shall provide notification of
2 the dispute to any person who provided any item of
3 information in dispute, at the address and in the
4 manner established with the person.

5 “(3) DETERMINATION THAT DISPUTE IS FRIVO-
6 LOUS OR IRRELEVANT.—

7 “(A) IN GENERAL.—Notwithstanding para-
8 graph (1), a consumer reporting agency may
9 terminate a reinvestigation of information dis-
10 puted by a consumer under that paragraph if
11 the agency determines that the dispute by the
12 consumer is frivolous or irrelevant, including by
13 reason of a failure by a consumer to provide
14 sufficient information to resolve the dispute.

15 “(B) NOTICE OF DETERMINATION.—Upon
16 making any determination in accordance with
17 subparagraph (A) that a dispute is frivolous or
18 irrelevant, a consumer reporting agency shall
19 notify the consumer within 5 business days of
20 such determination (including the reasons for
21 the determination), by mail or, if authorized by
22 the consumer for that purpose, by any other
23 means available to the agency.

24 “(4) CONSIDERATION OF CONSUMER INFORMA-
25 TION.—In conducting any reinvestigation under

1 paragraph (1) with respect to disputed information
2 in the file of any consumer, the consumer reporting
3 agency shall review and consider all relevant infor-
4 mation submitted by the consumer in the period de-
5 scribed in paragraph (1) with respect to such dis-
6 puted information.

7 “(5) TREATMENT OF INACCURATE OR UNVERI-
8 FIABLE INFORMATION.—

9 “(A) IN GENERAL.—If, after any
10 reinvestigation under paragraph (1) of any in-
11 formation disputed by a consumer, an item of
12 the information is found to be inaccurate or
13 cannot be verified, the consumer reporting
14 agency shall promptly delete that item of infor-
15 mation from the consumer’s file.

16 “(B) REQUIREMENTS RELATING TO
17 REINSERTION OF PREVIOUSLY DELETED MATE-
18 RIAL.—

19 “(i) CERTIFICATION OF ACCURACY OF
20 INFORMATION.—If any information is de-
21 leted from a consumer’s file pursuant to
22 subparagraph (A), the information may
23 not be reinserted in the file after the dele-
24 tion unless the person who furnishes the

1 information certifies that the information
2 is complete and accurate.

3 “(ii) NOTICE TO CONSUMER.—If any
4 information which has been deleted from a
5 consumer’s file pursuant to subparagraph
6 (A) is reinserted in the file, the consumer
7 reporting agency shall promptly notify the
8 consumer of the reinsertion in writing or,
9 if authorized by the consumer for that pur-
10 pose, by any other means available to the
11 agency.

12 “(iii) ADDITIONAL INFORMATION.—As
13 part of or in addition to the notice under
14 clause (ii), a consumer reporting agency
15 shall provide to a consumer in writing
16 within the 5-business-day period beginning
17 on the date of the reinsertion—

18 “(I) a statement that the dis-
19 puted information has been
20 reinserted;

21 “(II) a notice to the consumer
22 that if requested by the consumer the
23 agency shall provide to the consumer,
24 within 15 days after the date of the
25 request, the name, business address,

1 and telephone number of any fur-
2 nisher of information contacted, or of
3 any furnisher of information which
4 contacted the consumer reporting
5 agency, in connection with the
6 reinsertion of such information; and

7 “(III) the toll-free telephone
8 number of the consumer reporting
9 agency that the consumer can use to
10 contact the agency with respect to ob-
11 taining the information described in
12 subclause (II).

13 “(C) PROCEDURES TO PREVENT RE-
14 APPEARANCE.—A consumer reporting agency
15 shall maintain reasonable procedures designed
16 to prevent the reappearance in a consumer’s
17 file, and in consumer reports on the consumer,
18 of information that is deleted pursuant to this
19 paragraph (other than information that is
20 reinserted in accordance with subparagraph
21 (B)(i)).

22 “(6) NOTICE OF RESULTS OF
23 REINVESTIGATION.—

24 “(A) IN GENERAL.—A consumer reporting
25 agency shall provide written notice to a

1 consumer of the results of a reinvestigation
2 under this subsection within 5 business days
3 after the completion of the reinvestigation, by
4 mail or, if authorized by the consumer for that
5 purpose, by other means available to the agen-
6 cy.

7 “(B) CONTENTS.—As part of or in addi-
8 tion to the notice under subparagraph (A), a
9 consumer reporting agency shall provide to a
10 consumer in writing within the 5-business-day
11 period referred to in subparagraph (A)—

12 “(i) a statement that the
13 reinvestigation is completed;

14 “(ii) a consumer report that is based
15 upon the consumer’s file as that file is re-
16 vised as a result of the reinvestigation;

17 “(iii) a description or indication of
18 any changes made in the consumer report
19 as a result of those revisions to the con-
20 sumer’s file;

21 “(iv) a notice that, if requested by the
22 consumer, a description of the procedure
23 used to determine the accuracy and com-
24 pleteness of the information shall be pro-
25 vided to the consumer by the agency, in-

1 cluding the name, business address, and
2 telephone number of any furnisher of in-
3 formation contacted in connection with
4 such information;

5 “(v) a notice that the consumer has
6 the right to add a statement to the con-
7 sumer’s file disputing the accuracy or com-
8 pleteness of the information; and

9 “(vi) a notice that the consumer has
10 the right to request under subsection (d)
11 that the consumer reporting agency fur-
12 nish notifications under that subsection.

13 “(7) DESCRIPTION OF REINVESTIGATION
14 PROCEDURE.—A consumer reporting agency
15 shall provide to a consumer a description re-
16 ferred to in paragraph (6)(B)(iv) by not later
17 than 15 days after receiving a request from the
18 consumer for that description.”.

19 (b) CONFORMING AMENDMENT.—Subsection (d) of
20 section 611 of the Fair Credit Reporting Act (15 U.S.C.
21 1681i(d)) is amended by striking “The consumer report-
22 ing agency shall clearly” and all that follows through the
23 end of the subsection.

1 **SEC. 109. AMENDMENT RELATING TO CHARGES FOR DIS-**
2 **CLOSURE.**

3 Section 612 of the Fair Credit Reporting Act (15
4 U.S.C. 1681j) is amended to read as follows:

5 **“§ 612. Charges for certain disclosures**

6 “(a) REASONABLE CHARGES ALLOWED FOR CER-
7 TAIN DISCLOSURES.—Except as provided in subsections
8 (b) and (c), a consumer reporting agency may impose a
9 reasonable charge on a consumer—

10 “(1) for making a disclosure to the consumer
11 pursuant to section 609, which—

12 “(A) shall not exceed \$8, or such other
13 amount as is prescribed by the Federal Trade
14 Commission under subsection (d); and

15 “(B) shall be indicated to the consumer
16 prior to making disclosure; and

17 “(2) for furnishing a notification, statement,
18 summary, or codification to any person designated
19 by the consumer pursuant to section 611(d),
20 which—

21 “(A) shall not exceed the charge that the
22 agency would impose on each designated recipi-
23 ent for a consumer report; and

24 “(B) shall be indicated to the consumer
25 prior to furnishing such information.

1 “(b) FREE CONSUMER REPORT AFTER ADVERSE
2 NOTICE TO CONSUMER.—Each consumer reporting agen-
3 cy that maintains a file on a consumer shall make all dis-
4 closures pursuant to section 609 without charge to the
5 consumer if, within 60 days after receipt by such
6 consumer of a notification pursuant to section 615 or of
7 a notification from a debt collection agency affiliated with
8 that consumer reporting agency stating that the consum-
9 er’s credit rating may be or has been adversely affected,
10 the consumer makes a request under section 609.

11 “(c) CHARGE FOR CERTAIN NOTICES PROHIB-
12 ITED.—A consumer reporting agency shall not impose any
13 charge for—

14 “(1) providing any notice to a consumer re-
15 quired under section 611; or

16 “(2) notifying a person pursuant to section
17 611(d) of the deletion of information which is found
18 to be inaccurate or which can no longer be verified,
19 if the consumer designates that person to the agency
20 before the end of the 30-day period beginning on the
21 date of the notification of the consumer under sec-
22 tion 611(a)(6).

23 “(d) ADJUSTMENT OF FEE.—The Federal Trade
24 Commission shall annually adjust the maximum amount

1 of the fee authorized under subsection (a)(1)(A), to reflect
2 changes in the consumer price index.”.

3 **SEC. 110. AMENDMENTS RELATING TO DUTIES OF USERS**
4 **OF CONSUMER REPORTS.**

5 (a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—
6 Section 615(a) of the Fair Credit Reporting Act (15
7 U.S.C. 1681m(a)) is amended to read as follows:

8 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
9 ON THE BASIS OF INFORMATION CONTAINED IN
10 CONSUMER REPORTS.—If any person takes any adverse
11 action with respect to any consumer in connection with
12 any transaction initiated by the consumer or any employ-
13 ment determination, which is based in whole or in part
14 on any information contained in a consumer report, the
15 person shall—

16 “(1) provide written notice of the adverse action
17 to the consumer;

18 “(2) provide to the consumer—

19 “(A) the name, address, and telephone
20 number of the consumer reporting agency which
21 furnished the report to the person; and

22 “(B) a statement that the consumer re-
23 porting agency did not make the decision to
24 take the adverse action and is unable to provide

1 the consumer the specific reasons why the ad-
2 verse action was taken;

3 “(3) provide to the consumer a written notice of
4 the consumer’s right—

5 “(A) to obtain, under section 612, a free
6 copy of a consumer report on the consumer,
7 from the consumer reporting agency referred to
8 in paragraph (2) and from any other consumer
9 reporting agency which compiles and maintains
10 files on consumers on a nationwide basis, which
11 notice shall include an indication of the 60-day
12 period under that section for obtaining such a
13 copy; and

14 “(B) to dispute, under section 611, with a
15 consumer reporting agency the accuracy or
16 completeness of any information in a consumer
17 report furnished by the agency; and

18 “(4) in the case of an adverse action based in
19 whole or in part on a credit score or other predictor
20 of credit worthiness, provide to the consumer—

21 “(A) notice that the predictor was used;
22 and

23 “(B) the principal factors used to deter-
24 mine that predictor, if those factors are re-
25 quired to be disclosed by the person for pur-

1 poses of compliance with section 701(d)(3) of
2 the Equal Credit Opportunity Act.”.

3 (b) DUTIES OF USERS WHO MAKE CERTAIN CREDIT
4 SOLICITATIONS.—Section 615 of the Fair Credit Report-
5 ing Act (15 U.S.C. 1681m) is amended by adding at the
6 end the following new subsection:

7 “(d) DUTIES OF USERS WHO MAKE WRITTEN CRED-
8 IT SOLICITATIONS ON THE BASIS OF INFORMATION CON-
9 TAINED IN CONSUMER FILES.—

10 “(1) IN GENERAL.—Any person who uses a
11 consumer report of any consumer in connection with
12 any credit transaction which is not initiated by the
13 consumer and which consists of a firm offer of credit
14 shall provide with any written solicitation made to
15 the consumer regarding the transaction a clear and
16 conspicuous statement that—

17 “(A) information contained in the consum-
18 er’s consumer report was used in connection
19 with the transaction;

20 “(B) the consumer received the offer of
21 credit because the consumer satisfied the cri-
22 teria for creditworthiness under which the
23 consumer was selected for the offer;

24 “(C) if applicable, the credit may not be
25 extended if, after the consumer responds to the

1 offer, the consumer does not meet the criteria
2 used to select the consumer for the offer;

3 “(D) the consumer has a right to prohibit
4 information contained in the consumer’s file
5 with any consumer reporting agency to be used
6 in connection with any credit transaction that is
7 not initiated by the consumer; and

8 “(E) the consumer may exercise the right
9 referred to in subparagraph (D) by notifying
10 the joint notification system established under
11 section 604(d).

12 “(2) LIMITATION ON APPLICATION.—Paragraph
13 (1) does not apply to the use of a consumer report
14 by a person if—

15 “(A) the person is affiliated by common
16 ownership or by common corporate control with
17 the person who procured the report;

18 “(B) the person who procured the report
19 clearly and conspicuously disclosed to the
20 consumer to whom the report relates, before the
21 report is provided to the person who will use
22 the report, that the report might be provided to
23 and used by other persons who are affiliated in
24 the manner described in subparagraph (A) to
25 the person who procured the report; and

1 “(C) that provision and use of the report
2 is consented to by the consumer in writing.

3 “(3) MAINTAINING CRITERIA ON FILE.—A per-
4 son who makes an offer of credit to a consumer
5 under a credit transaction described in paragraph
6 (1) shall maintain on file the criteria used to select
7 the consumer to receive the offer, until the end of
8 the 3-year period beginning on the date on which the
9 offer is made to the consumer.”.

10 (c) DUTIES OF USERS FOR DIRECT MARKETING
11 TRANSACTIONS NOT INITIATED BY CONSUMERS.—Section
12 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m)
13 is further amended by adding after subsection (d) (as
14 added by subsection (b) of this section) the following new
15 subsection:

16 “(e) DUTIES OF USERS FOR DIRECT MARKETING
17 TRANSACTIONS NOT INITIATED BY CONSUMERS.—Any
18 person who, in connection with a direct marketing trans-
19 action that is not initiated by a consumer, uses informa-
20 tion concerning the consumer that is provided by a
21 consumer reporting agency shall provide to the consumer
22 with each solicitation made to the consumer regarding the
23 transaction a clear and conspicuous written statement—

1 “(1) that information concerning the consumer
2 that was provided by a consumer reporting agency
3 was used in connection with the transaction;

4 “(2) that the consumer has the right under sec-
5 tion 604(e) to prohibit any information concerning
6 the consumer from being provided by the consumer
7 reporting agency for use in connection with any di-
8 rect marketing transaction that is not initiated by
9 the consumer;

10 “(3) that the consumer may exercise the right
11 referred to in paragraph (2) by notifying the joint
12 notification system established under section
13 604(d)(4).”.

14 **SEC. 111. AMENDMENTS RELATING TO CIVIL LIABILITY.**

15 (a) CIVIL LIABILITY FOR WILLFUL NONCOMPLI-
16 ANCE, GENERALLY.—Section 616 of the Fair Credit Re-
17 porting Act (15 U.S.C. 1681n) is amended by striking
18 “Any consumer reporting agency or user of information
19 which” and inserting “Any person who”.

20 (b) MINIMUM CIVIL LIABILITY FOR WILLFUL NON-
21 COMPLIANCE.—Section 616(1) of the Fair Credit Report-
22 ing Act (15 U.S.C. 1681n(1)) is amended to read as fol-
23 lows:

24 “(1)(A) any actual damages sustained by the
25 consumer as a result of the failure; or

1 “(B) in the case of liability of a natural person
 2 for obtaining a consumer report under false pre-
 3 tenses or knowingly without a permissible purpose,
 4 such damages or \$1,000, whichever is greater;”.

5 (c) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-
 6 ANCE.—Section 617 of the Fair Credit Reporting Act (15
 7 U.S.C. 1681o) is amended by striking “Any consumer re-
 8 porting agency or user of information which” and insert-
 9 ing “Any person who”.

10 **SEC. 112. AMENDMENTS RELATING TO RESPONSIBILITIES**
 11 **OF PERSONS WHO FURNISH INFORMATION**
 12 **TO CONSUMER REPORTING AGENCIES.**

13 (a) IN GENERAL.—The Fair Credit Reporting Act
 14 (15 U.S.C. 1681 et seq.) is amended by redesignating sec-
 15 tion 622 as section 623 and inserting after section 621
 16 the following new section:

17 **“§ 622. Responsibilities of furnishers of information**
 18 **to consumer reporting agencies**

19 “(a) DUTY OF FURNISHERS OF INFORMATION TO
 20 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

21 “(1) IN GENERAL.—A person shall not furnish
 22 any information to any consumer reporting agency if
 23 the person knows or should know the information is
 24 incomplete or inaccurate.

1 “(2) DUTY TO CORRECT AND UPDATE INFOR-
2 MATION.—A person who—

3 “(A) in the ordinary course of business,
4 regularly and on a routine basis furnishes infor-
5 mation to one or more consumer reporting
6 agencies about their own transactions or experi-
7 ences with a consumer; and

8 “(B) furnishes information to a consumer
9 reporting agency, that the person determines is
10 not complete or accurate;

11 shall promptly notify the consumer reporting agency
12 of that determination and provide to the agency any
13 corrections to that information, or any additional in-
14 formation, that is necessary to make the information
15 provided by the person to the agency complete and
16 accurate.

17 “(3) DUTY TO PROVIDE NOTICE OF CONTINU-
18 ING DISPUTE.—If the completeness or accuracy of
19 any information furnished by any person to any
20 consumer reporting agency continues to be disputed
21 to such person, the person may not furnish the in-
22 formation to any consumer reporting agency without
23 notice that such information is disputed by the
24 consumer.

1 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
2 COUNTS.—A person who regularly furnishes infor-
3 mation to a consumer reporting agency regarding a
4 consumer who has a credit account with that person
5 shall notify the agency of the closure of that account
6 by the consumer in information regularly furnished
7 for the period in which the account is closed.

8 “(5) DUTY TO PROVIDE NOTICE OF DELIN-
9 QUENCY OF ACCOUNTS.—A person who furnishes in-
10 formation to a consumer reporting agency regarding
11 a delinquent account being placed for collection,
12 charged to profit or loss, or subjected to any similar
13 action shall notify the agency of the commencement
14 of the delinquency immediately preceding that ac-
15 tion, by not later than 90 days after the date of that
16 commencement.

17 “(b) NOTICE TO CONSUMERS OF INFORMATION FUR-
18 NISHED TO CONSUMER REPORTING AGENCIES.—

19 “(1) NOTICE REQUIRED.—A person who in the
20 ordinary course of business regularly and on a rou-
21 tine basis furnishes information about that person’s
22 transactions or experiences with any consumer to
23 any consumer reporting agency, shall give notice of
24 that fact in writing to the consumer before first pro-

1 viding any information about the consumer to any
2 consumer reporting agency.

3 “(2) CONTENTS OF NOTICE.—Written notice
4 provided to a consumer by a person pursuant to
5 paragraph (1) shall contain the following informa-
6 tion:

7 “(A) A brief description of the type of in-
8 formation which may be furnished regularly to
9 any consumer reporting agency.

10 “(B) A brief description of the frequency
11 with which or the circumstances under which
12 information is furnished to any consumer re-
13 porting agency.

14 “(3) NOTICE BY CERTAIN PERSONS.—A person
15 who furnishes information about consumers who
16 have written checks with insufficient funds may give
17 notice for purposes of paragraph (1) by posting the
18 notice in a conspicuous manner at each location
19 where checks are accepted by the person.

20 “(c) DUTIES OF FURNISHERS OF INFORMATION
21 UPON NOTICE OF DISPUTE.—Upon receiving notice pur-
22 suant to section 611(a)(2) of a dispute with regard to the
23 completeness or accuracy of any information provided by
24 a person to a consumer reporting agency, the person
25 shall—

“(1) complete an investigation with respect to the disputed information and report to the consumer reporting agency the results of that investigation before the end of the 30-business day period beginning on the date the agency receives notices of a dispute from the consumer in accordance with section 611(a)(1); and

8 “(2) review relevant information submitted to
9 the consumer reporting agency by the consumer in
10 accordance with section 611(a)(4).

11 “(d) LIMITATIONS.—

12 “(1) CIVIL LIABILITY.—Sections 616 and 617
13 shall not apply to any failure to comply with sub-
14 section (a).

15 “(2) ENFORCEMENT.—Subsection (a) shall be
16 enforced exclusively under section 621 by the Fed-
17 eral agencies identified in that section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 622 and inserting after the item relating to section 621 the following:

“622. Responsibilities of furnishers of information to consumer reporting agencies.

“623. Relation to State laws.”.

1 **SEC. 113. INCREASED CRIMINAL PENALTIES FOR OBTAIN-**
2 **ING INFORMATION UNDER FALSE PRE-**
3 **TENSES.**

4 (a) OBTAINING INFORMATION UNDER FALSE PRE-
5 TENSES.—Section 619 of the Fair Credit Reporting Act
6 (15 U.S.C. 1681q) is amended by striking “fined not more
7 than \$5,000 or imprisoned not more than one year, or
8 both” and inserting “fined under title 18, United States
9 Code, imprisoned for not more than 2 years, or both”.

10 (b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR
11 EMPLOYEES.—Section 620 of the Fair Credit Reporting
12 Act (15 U.S.C. 1681r) is amended by striking “fined not
13 more than \$5,000 or imprisoned not more than one year,
14 or both” and inserting “fined under title 18, United States
15 Code, imprisoned for not more than 2 years, or both”.

16 **SEC. 114. ADMINISTRATIVE ENFORCEMENT.**

17 The 2d sentence of section 621(a) of the Fair Credit
18 Reporting Act (15 U.S.C. 1681s(a)) is amended—

19 (1) by striking “Act and shall be subject to en-
20 forcement by the Federal Trade Commission under
21 section 5(b) thereof with respect to any consumer re-
22 porting agency or person subject to enforcement by
23 the Federal Trade Commission pursuant to this sub-
24 section, irrespective” and inserting “Act. All func-
25 tions and powers of the Federal Trade Commission
26 under the Federal Trade Commission Act shall be

1 available to the Commission to enforce compliance
2 with this title by any person subject to enforcement
3 by the Federal Trade Commission pursuant to this
4 subsection and not subject to enforcement pursuant
5 to section 8 of the Federal Deposit Insurance Act,
6 irrespective”; and

7 (2) by inserting “, including the power to en-
8 force the provisions of this title in the same manner
9 as if the violation had been a violation of any Fed-
10 eral Trade Commission trade regulation rule” before
11 the period.

12 **SEC. 115. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
13 **ING ACT.**

14 Section 621 of the Fair Credit Reporting Act (15
15 U.S.C. 1681s) is amended by redesignating subsection (c)
16 as subsection (d) and inserting after subsection (b) the
17 following new subsection:

18 “(c) STATE ACTION TO ENFORCE FAIR CREDIT RE-
19 PORTING.—

20 “(1) AUTHORITY OF STATES.—Whenever the
21 chief law enforcement officer of the State, or an offi-
22 cial or agency designated by a State, has reason to
23 believe that any person has violated this title the
24 State may bring a civil action on behalf of its resi-

1 dents to enjoin such violation, an action to recover
2 for actual monetary loss, or both.

3 “(2) EXCLUSIVE JURISDICTION OF FEDERAL
4 COURTS.—The district courts of the United States,
5 the United States courts of any territory, and the
6 District Court of the United States for the District
7 of Columbia shall have exclusive jurisdiction over all
8 civil actions brought under this subsection.

9 “(3) RIGHTS OF COMMISSION.—The State shall
10 serve prior written notice of any such civil action
11 upon the Federal Trade Commission or the appro-
12 priate Federal regulator determined under sub-
13 section (b) and provide the Commission or appro-
14 priate Federal regulator with a copy of its com-
15 plaint, except in any case where such prior notice is
16 not feasible, in which case the State shall serve such
17 notice immediately upon instituting such action. The
18 Commission or appropriate Federal regulator shall
19 have the right (A) to intervene in the action, (B)
20 upon so intervening, to be heard on all matters aris-
21 ing therein, and (C) to file petitions for appeal.

22 “(4) VENUE; SERVICE OF PROCESS.—Any civil
23 action brought under this subsection in a district
24 court of the United States may be brought in the
25 district wherein the defendant is found or is an in-

1 habitant or transacts business or wherein the viola-
2 tion occurred or is occurring, and process in such
3 cases may be served in any district in which the de-
4 fendant is an inhabitant or where the defendant may
5 be found.

6 “(5) INVESTIGATORY POWERS.—For purposes
7 of bringing any civil action under this subsection,
8 nothing in this subsection shall prevent the chief law
9 enforcement officer, or an official or agency des-
10 ignated by a State, from exercising the powers con-
11 ferred on the chief law enforcement officer or such
12 official by the laws of such State to conduct inves-
13 tigations or to administer oaths or affirmations or to
14 compel the attendance of witnesses or the production
15 of documentary and other evidence.

16 “(6) EFFECT ON STATE COURT PROCEED-
17 INGS.—Nothing contained in this subsection shall be
18 construed to prohibit an authorized State official
19 from proceeding in State court on the basis of an al-
20 leged violation of any civil or criminal statute of
21 such State.

22 “(7) LIMITATION.—Whenever the Federal
23 Trade Commission or the appropriate Federal regu-
24 lator has instituted a civil action for violation of this
25 title, no State may, during the pendency of such ac-

tion instituted by the Commission or the appropriate Federal regulator, subsequently institute a civil action against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation as alleged in the complaint.”.

6 SEC. 116. FEDERAL RESERVE BOARD AUTHORITY.

7 Section 621 of the Fair Credit Reporting Act (15
8 U.S.C. 1681s), is further amended by adding after sub-
9 section (d) (as redesignated by section 115) the following
10 new subsection:

“(e) INTERPRETIVE AUTHORITY.—The Federal Reserve Board may issue interpretations of any provision of this title as it may apply to any persons identified under subsection (b) (1), (2), and (3), or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in subsection (b) (1), (2), and (3).”.

18 SEC. 117. ESTABLISHMENT OF TOLL-FREE TELEPHONE
19 NUMBER.

Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish (and thereafter maintain) a toll-free telephone number pursuant to section 609(c)(1)(B) of the Fair Credit Reporting Act, as amended by section 107(d) of

1 this Act, before the end of the 455-day period beginning
2 on the date of the enactment of this Act.

3 **SEC. 118. RELATION TO STATE LAWS.**

4 Section 623 of the Fair Credit Reporting Act, as re-
5 designated by section 112(a), is amended to read as fol-
6 lows:

7 **“§ 623. Relation to State laws**

8 “(a) STATE LAW PREEMPTED.—The provisions of
9 this title shall supersede any provision of the law of any
10 State relating to the subject matter of this title, including
11 but not limited to any provision of State law relating to
12 the furnishing, collection, distribution, or use of any infor-
13 mation on consumers or any fees imposed upon or any
14 disclosure to consumers associated with the furnishing,
15 collection, distribution, or use of any information on con-
16 sumers, except that any State may employ or establish
17 State laws for the purpose of enforcing the requirements
18 of this title.

19 “(b) LIMITATION.—Nothing in this section restricts
20 the ability of any State to employ or establish laws to ad-
21 dress unfair or deceptive acts or practices, or laws protect-
22 ing aspects of consumer privacy which do not relate to
23 the subject matter of this title. Nothing in this section
24 restricts the ability of any State to employ or establish
25 its own penalties to enforce violations of this title.”.

1 **SEC. 119. ACTION BY FTC.**

2 The Federal Trade Commission shall prescribe all
3 matters required by this title (including the amendments
4 made by this title) to be prescribed by that Commission,
5 before the end of the 270-day period beginning on the date
6 of the enactment of this Act.

7 **SEC. 120. MISCELLANEOUS CLERICAL AMENDMENTS.**

8 The Fair Credit Reporting Act is further amended—

9 (1) in section 605(a)(1) (15 U.S.C.
10 1681c(a)(1)) by striking “cases” and inserting
11 “Cases”;

12 (2) in section 606(b) (15 U.S.C. 1681d(b)) by
13 striking “shall” the second place it appears;

14 (3) in section 617(1) (15 U.S.C. 1681o(1)) by
15 adding “and” after the semicolon at the end; and

16 (4) in section 621(b)(1)(C) (15 U.S.C.
17 1681s(b)(1)(C)) by striking the period at the end
18 and inserting a semicolon.

19 **SEC. 121. EFFECTIVE DATES OF AMENDMENTS.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), the amendments made by this title shall be effective
22 after the 455-day period beginning on the date of the en-
23 actment of this Act.

24 (b) EXCEPTIONS.—

25 (1) NOTIFICATION SYSTEM.—Section 604(d)(3)
26 of the Fair Credit Reporting Act, as amended by

1 section 104(a), shall be effective after the 365-day
 2 period beginning on the date of the enactment of
 3 this Act.

4 (2) FTC AUTHORITY.—Subsection (a) shall not
 5 affect the authority of the Federal Trade Commis-
 6 sion to prescribe matters under the amendments
 7 made by this title.

8 **TITLE II—CREDIT REPAIR** 9 **ORGANIZATIONS**

10 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-** 11 **TIONS.**

12 Title IV of the Consumer Credit Protection Act is
 13 amended to read as follows:

14 **“TITLE IV—CREDIT REPAIR** 15 **ORGANIZATIONS**

- “Sec.
- “401. Short title.
- “402. Findings and purposes.
- “403. Definitions.
- “404. Prohibited practices by credit repair organizations.
- “405. Disclosures.
- “406. Credit repair organizations contracts.
- “407. Right to cancel contract.
- “408. Noncompliance with this title.
- “409. Civil liability.
- “410. Administrative enforcement.
- “411. Relation to State law.

16 **“SEC. 401. SHORT TITLE.**

17 “This title may be cited as the ‘Credit Repair Organi-
 18 zations Act’.

1 **“SEC. 402. FINDINGS AND PURPOSES.**

2 “(a) FINDINGS.—The Congress makes the following
3 findings:

4 “(1) Consumers have a vital interest in estab-
5 lishing and maintaining their creditworthiness and
6 credit standing in order to obtain and use credit. As
7 a result, consumers who have experienced credit
8 problems may seek assistance from credit repair or-
9 ganizations which offer to improve the credit stand-
10 ing of such consumers.

11 “(2) Certain advertising and business practices
12 of some companies engaged in the business of credit
13 repair services have worked a financial hardship
14 upon consumers, particularly those of limited eco-
15 nomic means and who are inexperienced in credit
16 matters.

17 “(b) PURPOSES.—The purposes of this title are as
18 follows:

19 “(1) To ensure that prospective buyers of the
20 services of credit repair organizations are provided
21 with the information necessary to make an informed
22 decision regarding the purchase of such services.

23 “(2) To protect the public from unfair or decep-
24 tive advertising and business practices by credit re-
25 pair organizations.

1 **“SEC. 403. DEFINITIONS.**

2 “For purposes of this title—

3 “(1) CONSUMER.—The term ‘consumer’ means
4 an individual.

5 “(2) CONSUMER CREDIT TRANSACTION.—The
6 term ‘consumer credit transaction’ means any trans-
7 action in which credit is offered or extended to an
8 individual for personal, family, or household pur-
9 poses.

10 “(3) CREDIT REPAIR ORGANIZATION.—The
11 term ‘credit repair organization’—

12 “(A) means any person who uses any in-
13 strumentality of interstate commerce or the
14 mails to sell, provide, or perform (or represent
15 that such person can or will sell, provide, or
16 perform) any service, in return for the payment
17 of money or other valuable consideration, for
18 the express or implied purpose of—

19 “(i) improving any consumer’s credit
20 record, credit history, or credit rating;

21 “(ii) removing adverse credit informa-
22 tion that is accurate and not obsolete from
23 the consumer’s record, history, or rating;

24 “(iii) altering the consumer’s identi-
25 fication to prevent the disclosure of the
26 consumer’s credit record, history, or rating

1 for the purpose of concealing adverse cred-
2 it information that is accurate and not ob-
3 solete;

4 “(iv) providing advice or assistance to
5 any consumer with regard to any activity
6 or service described in clause (i), (ii), or
7 (iii); and

8 “(B) does not include—

9 “(i) any nonprofit organization which
10 is exempt from taxation under section
11 501(c)(3) of the Internal Revenue Code of
12 1986; or

13 “(ii) any attorney-at-law who is a
14 member of the bar of the highest court of
15 any State or otherwise licensed under the
16 laws of any State, with respect to services
17 rendered which are within the scope of reg-
18 ulations applicable to members of such bar
19 or such licensees.

20 “(4) CREDIT.—The term ‘credit’ has the mean-
21 ing given to such term in section 103(e) of this Act.

1 **“SEC. 404. PROHIBITED PRACTICES BY CREDIT REPAIR OR-**
2 **GANIZATIONS.**

3 “No credit repair organization, and no officer, em-
4 ployee, agent, or other person participating in the conduct
5 of the affairs of any credit repair organization, may—

6 “(1) charge or receive any money or other valu-
7 able consideration for the performance of any service
8 which the credit repair organization has agreed to
9 perform for any consumer before such service is fully
10 performed;

11 “(2) make any statement, or counsel or advise
12 any consumer to make any statement, which is un-
13 true or misleading (or which, upon the exercise of
14 reasonable care, should be known by the credit re-
15 pair organization, officer, employee, agent, or other
16 person to be untrue or misleading) with respect to
17 any consumer’s creditworthiness, credit standing, or
18 credit capacity to—

19 “(A) any consumer reporting agency (as
20 defined in section 603(f) of this Act); or

21 “(B) any person—

22 “(i) who has extended credit to the
23 consumer; or

24 “(ii) to whom the consumer has ap-
25 plied or is applying for an extension of
26 credit;

1 “(3) make any statement, or counsel or advise
2 any consumer to make any statement, the intended
3 effect of which is to alter the consumer’s identifica-
4 tion to prevent the display of the consumer’s credit
5 record, history, or rating for the purpose of conceal-
6 ing adverse information that is accurate and not ob-
7 solete to—

8 “(A) any consumer reporting agency;

9 “(B) any person—

10 “(i) who has extended credit to the
11 consumer; or

12 “(ii) to whom the consumer has ap-
13 plied or is applying for an extension of
14 credit;

15 “(4) make or use any untrue or misleading rep-
16 resentation of the services of the credit repair orga-
17 nization; or

18 “(5) engage, directly or indirectly, in any act,
19 practice, or course of business that constitutes or re-
20 sults in the commission of, or an attempt to commit,
21 a fraud or deception on any person in connection
22 with the offer or sale of the services of the credit re-
23 pair organization.

1 **“SEC. 405. DISCLOSURES.**

2 “(a) DISCLOSURE REQUIRED.—Any credit repair or-
3 ganization shall provide any consumer with the following
4 written statement before any contract or agreement be-
5 tween the consumer and the credit repair organization is
6 executed:

7 **“‘Consumer Credit File Rights**
8 **Under State and Federal Law**

9 “‘You have a right to dispute inaccurate information
10 in your credit report by contacting the credit bureau di-
11 rectly. However, neither you nor any “credit repair” com-
12 pany or credit repair organization has the right to have
13 accurate, current, and verifiable information removed
14 from your credit report. The credit bureau must remove
15 accurate, negative information from your report only if it
16 is over 7 years old. Bankruptcy information can be re-
17 ported for 10 years.

18 “‘You have a right to obtain a copy of your credit
19 report from a credit bureau. You may be charged a rea-
20 sonable fee. There is no fee, however, if you have been
21 turned down for credit, employment, insurance, or a rental
22 dwelling because of information in your credit report with-
23 in the preceding 60 days. The credit bureau must provide
24 someone to help you interpret the information in your
25 credit file.

1 “‘You have a right to sue a credit repair company
2 that violates the Credit Repair Organization Act. This law
3 prohibits deceptive practices by credit repair companies.

4 “‘You have the right to cancel your contract with any
5 credit repair organization for any reason within 3 business
6 days from the date you signed it.

7 “‘Credit bureaus are required to follow reasonable
8 procedures to ensure that creditors report information ac-
9 curately. However, mistakes may occur.

10 “‘You may, on your own, notify a credit bureau in
11 writing that you dispute the accuracy of information in
12 your credit file. The credit bureau must then reinvestigate
13 and modify or remove inaccurate information. The credit
14 bureau may not charge any fee for this service. Any perti-
15 nent information and copies of all documents you have
16 concerning an error should be given to the credit bureau.

17 “‘If reinvestigation does not resolve the dispute to
18 your satisfaction, you may send a brief statement to the
19 credit bureau, to be kept in your file, explaining why you
20 think the record is inaccurate. The credit bureau must in-
21 clude a summary of your statement about disputed infor-
22 mation with any report it issues about you.

23 “‘The Federal Trade Commission regulates credit
24 bureaus and credit repair organizations. For more infor-
25 mation contact:

1 The Public Reference Branch
2 Federal Trade Commission
3 Washington, D.C. 20580’.

4 “(b) SEPARATE STATEMENT REQUIREMENT.—The
5 written statement required under this section shall be pro-
6 vided as a document which is separate from any written
7 contract or other agreement between the credit repair or-
8 ganization and the consumer or any other written material
9 provided to the consumer.

10 “(c) RETENTION OF COMPLIANCE RECORDS.—

11 “(1) IN GENERAL.—The credit repair organiza-
12 tion shall maintain a copy of the statement signed
13 by the consumer acknowledging receipt of the state-
14 ment.

15 “(2) MAINTENANCE FOR 2 YEARS.—The copy
16 of any consumer’s statement shall be maintained in
17 the organization’s files for 2 years after the date on
18 which the statement is provided to the consumer.

19 **“SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.**

20 “(a) WRITTEN CONTRACTS REQUIRED.—No services
21 may be provided by any credit repair organization for any
22 consumer—

23 “(1) unless a written and dated contract (for
24 the purchase of such services) which meets the re-

1 quirements of subsection (b) has been signed by the
2 consumer; or

3 “(2) before the end of the 3-business day period
4 beginning on the date the contract is signed.

5 “(b) TERMS AND CONDITIONS OF CONTRACT.—No
6 contract referred to in subsection (a) meets the require-
7 ments of this subsection unless such contract includes the
8 following information (in writing):

9 “(1) The terms and conditions of payment, in-
10 cluding the total amount of all payments to be made
11 by the consumer to the credit repair organization or
12 to any other person.

13 “(2) A full and detailed description of the serv-
14 ices to be performed by the credit repair organiza-
15 tion for the consumer, including—

16 “(A) all guarantees and all promises of full
17 or partial refunds; and

18 “(B) an estimate of—

19 “(i) the date by which the perform-
20 ance of the services (to be performed by
21 the credit repair organization or any other
22 person) will be complete; or

23 “(ii) the length of the period nec-
24 essary to perform such services.

1 “(3) The credit repair organization’s name and
2 principal business address.

3 “(4) A conspicuous statement in bold face type,
4 in immediate proximity to the space reserved for the
5 consumer’s signature on the contract, which reads as
6 follows: ‘You may cancel this contract without pen-
7 alty or obligation at any time before midnight of the
8 3rd-business day after the date on which you signed
9 the contract. See the attached notice of cancellation
10 form for an explanation of this right.’.

11 **“SEC. 407. RIGHT TO CANCEL CONTRACT.**

12 “(a) IN GENERAL.—Any consumer may cancel any
13 contract with any credit repair organization without pen-
14 alty or obligation by notifying the credit repair organiza-
15 tion of the consumer’s intention to do so at any time be-
16 fore midnight of the 3rd-business day which begins after
17 the date on which the contract or agreement between the
18 consumer and the credit repair organization is executed
19 or would, but for this subsection, become enforceable
20 against the parties.

21 “(b) CANCELLATION FORM AND OTHER INFORMA-
22 TION.—Each contract shall be accompanied by a form, in
23 duplicate, which has the heading ‘Notice of Cancellation’
24 and contains in bold face type the following statement:

1 “‘You may cancel this contract, without any
2 penalty or obligation, at any time before midnight of
3 the 3rd day which begins after the date the contract
4 is signed by you.

5 “‘If you cancel, any payment you made under
6 this contract will be returned before the end of the
7 10-day period beginning on the date the seller re-
8 ceives your cancellation notice.

9 “‘To cancel this contract, mail or deliver a
10 signed, dated copy of this cancellation notice, or any
11 other written notice to [name of credit repair
12 organization] at [address of credit repair
13 organization] before midnight on [date]

14 “‘I hereby cancel this transaction,
15 [date]
16 [purchaser’s signature].’.

17 “(c) CONSUMER COPY OF CONTRACT REQUIRED.—

18 Any consumer who enters into any contract with any cred-
19 it repair organization shall be given, by the organization—

20 “(1) a copy of the completed contract and the
21 disclosure statement required under section 405; and

22 “(2) a copy of any other document the credit
23 repair organization requires the consumer to sign,
24 at the time the contract or the other document is signed.

1 **“SEC. 408. NONCOMPLIANCE WITH THIS TITLE.**

2 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
3 any consumer of any protection provided by or any right
4 of the consumer under this title—

5 “(1) shall be treated as void; and

6 “(2) may not be enforced by any Federal or
7 State court or any other person.

8 “(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt
9 by any person to obtain a waiver from any consumer of
10 any protection provided by or any right of the consumer
11 under this title shall be treated as a violation of this title.

12 “(c) CONTRACTS NOT IN COMPLIANCE.—Any con-
13 tract for services which does not comply with the applica-
14 ble provisions of this title—

15 “(1) shall be treated as void; and

16 “(2) may not be enforced by any Federal or
17 State court or any other person.

18 **“SEC. 409. CIVIL LIABILITY.**

19 “(a) LIABILITY ESTABLISHED.—Any credit repair
20 organization, and any officer, employee, agent, or other
21 person participating in the conduct of the affairs of any
22 credit repair organization, which fails to comply with any
23 provision of this title with respect to any person shall be
24 liable to such person in an amount equal to the sum of
25 the amounts determined under each of the following para-
26 graphs:

1 “(1) ACTUAL DAMAGES.—The greater of—

2 “(A) the amount of any actual damage
3 sustained by such person as a result of such
4 failure; or

5 “(B) any amount paid by the person to the
6 credit repair organization.

7 “(2) PUNITIVE DAMAGES.—

8 “(A) INDIVIDUAL ACTIONS.—In the case of
9 any action by an individual, such additional
10 amount as the court may allow.

11 “(B) CLASS ACTIONS.—In the case of a
12 class action, the sum of—

13 “(i) the aggregate of the amount
14 which the court may allow for each named
15 plaintiff; and

16 “(ii) the aggregate of the amount
17 which the court may allow for each other
18 class member, without regard to any mini-
19 mum individual recovery.

20 “(3) ATTORNEYS’ FEES.—In the case of any
21 successful action to enforce any liability under para-
22 graph (1) or (2), the costs of the action, together
23 with reasonable attorneys’ fees.

24 “(b) FACTORS TO BE CONSIDERED IN AWARDING
25 PUNITIVE DAMAGES.—In determining the amount of any

1 liability of any credit repair organization under subsection
2 (a)(2), the court shall consider, among other relevant fac-
3 tors—

4 “(1) the frequency and persistence of non-
5 compliance by the credit repair organization;

6 “(2) the nature of the noncompliance;

7 “(3) the extent to which such noncompliance
8 was intentional; and

9 “(4) in the case of any class action, the number
10 of consumers adversely affected.

11 “(c) JURISDICTION.—Any action under this section
12 may be brought in any United States district court, or
13 in any other court of competent jurisdiction, before the
14 later of—

15 “(1) the end of the 2-year period beginning on
16 the date of the occurrence of the violation involved;
17 or

18 “(2) in any case in which any credit repair or-
19 ganization has materially and willfully misrep-
20 sented any information which—

21 “(A) the credit repair organization is re-
22 quired, by any provision of this title, to disclose
23 to any consumer; and

1 “(B) is material to the establishment of
2 the credit repair organization’s liability to the
3 consumer under this section,
4 the end of the 2-year period beginning on the date
5 of the discovery by the consumer of the mis-
6 representation.

7 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

8 “(a) IN GENERAL.—Compliance with the require-
9 ments imposed under this title with respect to credit repair
10 organizations shall be enforced under the Federal Trade
11 Commission Act by the Federal Trade Commission.

12 “(b) VIOLATIONS OF THIS TITLE TREATED AS VIO-
13 LATIONS OF FEDERAL TRADE COMMISSION ACT.—

14 “(1) IN GENERAL.—For the purpose of the ex-
15 ercise by the Federal Trade Commission of the Com-
16 mission’s functions and powers under the Federal
17 Trade Commission Act, any violation of any require-
18 ment or prohibition imposed under this title with re-
19 spect to credit repair organizations shall constitute
20 an unfair or deceptive act or practice in commerce
21 in violation of section 5(a) of the Federal Trade
22 Commission Act.

23 “(2) ENFORCEMENT AUTHORITY UNDER OTHER
24 LAW.—All functions and powers of the Federal
25 Trade Commission under the Federal Trade Com-

1 mission Act shall be available to the Commission to
2 enforce compliance with this title by any person sub-
3 ject to enforcement by the Federal Trade Commis-
4 sion pursuant to this subsection, including the power
5 to enforce the provisions of this title in the same
6 manner as if the violation had been a violation of
7 any Federal Trade Commission trade regulation
8 rule, without regard to whether the credit repair or-
9 ganization—

10 “(A) is engaged in commerce; or

11 “(B) meets any other jurisdictional tests in
12 the Federal Trade Commission Act.

13 “(c) STATE ENFORCEMENT OF TITLE.—

14 “(1) IN GENERAL.—The attorney general of
15 any State, or an official or agency designated under
16 the law of any State, may enforce the provisions of
17 this title in Federal or State court.

18 “(2) CIVIL ENFORCEMENT ACTIONS.—Any
19 State may bring a civil action in any Federal or
20 State court to enjoin any violation of this title and
21 recover damages under this title for consumers who
22 reside in such State.

23 **“SEC. 411. RELATION TO STATE LAW.**

24 “This title shall not annul, alter, affect, or exempt
25 any person subject to the provisions of this title from com-

- 1 plying with any law of any State except to the extent that
- 2 such law is inconsistent with any provision of this title,
- 3 and then only to the extent of the inconsistency.”.



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